

MICHAEL VOLPE  
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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-185923

DATE: November 8, 1976

MATTER OF: Bartholomew L. Aversano -- Claim for per diem  
at official duty station

DIGEST: Employee stationed in New York City is detailed for 10 days temporary duty with free lodging, but he incurs subsistence expenses in New York City while serving on protective mission. However, absent specific statutory authority, employee is not entitled to subsistence or per diem at official duty station regardless of any unusual working conditions.

This action is in response to the request for an advance decision from Ethel H. Wedemeyer, an authorized certifying officer of the United States Secret Service, Department of the Treasury, reference 300.0, regarding payment of the travel voucher of Mr. Bartholomew L. Aversano, an employee of the Bureau of Alcohol, Tobacco and Firearms, for a reduced per diem for a period of temporary duty performed at his official duty station.

The record indicates that Mr. Aversano, a Special Agent with the Bureau of Alcohol, Tobacco and Firearms stationed at New York City, was detailed to the U.S. Secret Service from October 5 through October 15, 1975, on a protective mission. Mr. Aversano has claimed per diem for subsistence expenses incurred in New York City where he was granted free lodging, even though his official duty station is New York City and his residence is located on Long Island, New York. The authorized certifying officer questions whether employees on protective details in the vicinity of either their official duty station or residence from which they commute daily are entitled to per diem when they are required to remain overnight at the hotel where the Protectee is lodged or when they remain at the hotel over 10 hours during the daytime.

Our Office has consistently held that absent specific statutory authority, an employee may not be paid per diem or actual subsistence at his headquarters or place of abode from

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which he commutes daily to his official duty station regardless of any unusual working conditions involved. See Federal Travel Regulations (FPMR 101-7) para. 1-7.6a (May 1973); and B-182586, December 17, 1974, and cases cited therein. We note that under Section 102 of Public Law 91-74, 83 Stat. 118, the Secretary of the Treasury may approve reimbursement of subsistence expenses for agents on protective missions without regard to the rates prescribed in 5 U.S.C. 5702 (Supp. IV, 1974) and established by the Administrator of General Services. However, this express statutory authority pertains only to the rates of per diem or subsistence expenses payable to such agents and not to the general entitlement of the agents to travel expenses under 5 U.S.C. 5702 and the Federal Travel Regulations.

Accordingly, the voucher may not be certified for payment.

Acting Comptroller General  
of the United States